



North Coast Regional Water Quality Control Board

July 14, 2021

Noah Sheppard
PO Box 112
Albion, CA 95410

Certified Mail 7016 0750 0001 0048 7495

Dear Mr. Sheppard:

Subject: Notice of Violation and Transmittal of Inspection Report for June 24, 2021 Inspection of Mendocino County Assessor's Parcel Number (APN) 148-070-02-00

File: Cannabis Program Inspections, Mendocino County, June 2021 Inspections, CIWQS Place ID: 874977

This letter is to notify you of observed violations of the requirements listed below for unauthorized discharges to waters of the state from the above-referenced parcel (Property):

1. Water Quality Control Plan for the North Coast Region (Basin Plan) Section 4.2.1 at locations WQ3, WQ4, WQ6 and WQ8.
2. California Water Code (Water Code) sections 13260 and 13264

Within 30 days of this letter, please contact Regional Water Board staff to discuss your plan to correct the observed violations.

Background

On June 24, 2021, staff from the Regional Water Board, accompanied by staff of the California Department of Fish and Wildlife (CDFW), State Water Resources Control Board Division of Water Rights, and various law enforcement personnel, inspected the subject Property.

The purpose of the inspection was to evaluate onsite development and conditions, and to identify and assess any impacts or threatened impacts to the quality and beneficial uses of waters of the state.

GREGORY A. GIUSTI , CHAIR | MATTHIAS ST. JOHN, EXECUTIVE OFFICER

Attached is a copy of the water quality inspection report (Attachment B – June 24, 2021 Inspection Report). Please review the Inspection Report carefully and completely. The Inspection Report contains recommendations for correcting observed violations and advises you of the Regional Water Board permits necessary for instream work and projects/activities that result in discharges of waste to receiving waters.

Relevant Requirements

During the inspection, Regional Water Board staff identified several features and conditions on the Property that represent violations of water quality requirements and regulations. Attachment A – Regulatory Citations, provides references to these, and related, requirements and regulations.

Observed Violations

As documented in the June 24, 2021 Inspection Report, Regional Water Board staff observed violations of the Basin Plan Section 4.2.1 Prohibition 2, and Water Code sections 13260 and 13264. Staff observed these violations at Property locations identified in the June 24, 2021, Inspection Report as WQ2, WQ3, WQ4, WQ6 WQ8 and WQ9.

Additional Potential Liabilities

The Regional Water Board is in the process of considering whether the violations of the Water Code, and the Basin Plan warrant further enforcement. We encourage you to take steps, to correct the violations as soon as possible, securing any applicable permits from this and other agencies prior to conducting work. Please note that the existing conditions, as observed and documented in the Inspection Report, may represent continuing violations of the Water Code and Basin Plan.

Please note that correcting the conditions of non-compliance at the Property does not preclude enforcement for the violations alleged in this notice. As noted above, the Regional Water Board reserves its right to fully enforce the law against any violation and threatened violation by taking enforcement actions such as a cleanup and abatement order, time schedule order, administrative civil liabilities, and referral to the California Attorney General's office. Administrative civil liabilities may be assessed on a daily basis in the amount up to \$5,000 for each day the violation occurs or up to \$10 per gallon, but not both pursuant to Water Code section 13350.

Directive to Obtain Regulatory Coverage Prior to Future Activities Involving or Resulting in Discharges of Waste to Waters of the State

During the June 24, 2021, inspection, staff observed cannabis cultivation operations of sufficient size and scope to require regulatory coverage under the State Water

Resources Control Board (State Water Board) Order No. WQ-2017-0023-DWQ, *General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities* (Statewide General Order).

Please be aware that, pursuant to Water Code sections 13260 and 13264, if you elect to resume/continue cannabis cultivation on the subject Property, you must either:

- 1) Enroll the property under the Statewide General Order by providing the information required in the online application process. The application can be accessed at: https://www.waterboards.ca.gov/water_issues/programs/cannabis/

Submit the application fee within **30 days** of submitting the on-line application. Failure to submit the application fee within 30 days will result in the application being voided and authorization terminated. Payments shall be identified using the Fee Payment Application Number (found on the Notice of Receipt). All checks or money orders shall be made payable to: "State Water Resources Control Board," and shall be delivered to:

(By US Mail):

Accounting Office
Attn: Water Quality Fees – Cannabis General Order
P.O. Box 1888
Sacramento, CA 95812-1888

(In person or by courier delivery):

Accounting Office
Attn: Water Quality Fees –Cannabis General Order
1001 I Street
Sacramento, CA 95814-2828

OR:

- 2) File a Report of Waste Discharge in order to obtain individual Waste Discharge Requirements (WDRs) specific to your property.

Please submit the appropriate documents and payments to:

North Coast Water Board
Attn: Diana Henriouille
Enforcement Unit
5550 Skylane Boulevard, Suite A
Santa Rosa, CA 95403

Water Code section 13260 states, in relevant part:

(a) Each of the following persons shall file with the appropriate regional board a report of the discharge, containing the information which may be required by the regional board:

(1) Any person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the state, other than into a community sewer system.

Water Code section 13264 states, in relevant part:

(a) No person shall initiate any new discharge of waste or make any material changes in any discharge...prior to the filing of the report required by Section 13260 and no person shall take any of these actions after filing the report but before whichever of the following occurs first:

(1) The issuance of waste discharge requirements pursuant to Section 13263.

Failure to comply with Water Code sections 13260 and 13264 may result in an administrative civil liability under Water code sections 13261 and 13265 not to exceed \$1,000 per violation for each day in which each violation occurs.

Future correspondence regarding this matter will be sent to you at this address unless an alternative address is provided to the Regional Water Board. Failure to accept mail from the Regional Water Board is not a valid excuse for non-compliance with any future enforcement orders, and a failure to respond or otherwise appear at a future enforcement proceeding could subject you to a default order and the imposition of administrative civil liability.

If you have questions about what is required of you to comply with the requirements outlined above, please contact Regional Water Board staff Brian Fuller at Brian.Fuller@waterboards.ca.gov or by phone at (707) 576-2806 to advise as to your plan and schedule to correct the alleged violations as documented in the inspection report.

You may also contact me at Diana.Henrioulle@waterboards.ca.gov. Additionally, we are available to meet with you if you wish to discuss this letter or our waste discharge regulatory programs in further detail.

Sincerely,

Diana Henrioulle, P.E.
Enforcement Unit

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Attachments: Attachment A - Regulatory Citations
Attachment B – June 24, 2021, Inspection Report

Certified Mail – Return Receipt requested

cc: North Coast Regional Water Quality Control Board

Northcoast.Cannabis@waterboards.ca.gov

Claudia Villacorta, Claudia.Villacorta@waterboards.ca.gov

Kason Grady, Kason.Grady@waterboards.ca.gov

Brian Fuller, Brian.Fuller@waterboards.ca.gov

Department of Fish and Wildlife

Timothy Dodson, Timothy.Dodson@wildlife.ca.gov

Warden Justin Rhoades, Justin.Rhoades@wildlife.ca.gov

Mendocino County Sherriff's Office

Morgan Gibson, gibsonm@mendocinocounty.org

Clint Wyant, wyantc@mendocinocounty.org

Attachment A – Regulatory Citations

Regulatory Section	Citation
Basin Plan Section 4.2.1, Prohibition 2	Prohibits “[t]he placing or disposal of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature at locations where such material could pass into any stream or watercourse in the basin in quantities which could be deleterious to fish, wildlife, or other beneficial uses.”
California Water Code Section 13260	<p>“(a) Each of the following persons shall file with the appropriate regional board a report of the discharge, containing the information that may be required by the regional board:</p> <p>(1) A person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the state, other than into a community sewer system.</p> <p>(2) A person who is a citizen, domiciliary, or political agency or entity of this state discharging waste, or proposing to discharge waste, outside the boundaries of the state in a manner that could affect the quality of the waters of the state within any region.”</p>
California Water Code Section 13261(a)	“A person who fails to furnish a report or pay a fee under <u>Section 13260</u> when so requested by a regional board is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).”
California Water Code Section 13264 (a)	“No person shall initiate any new discharge of waste or make any material changes in any discharge, or initiate a discharge to, make any material changes in a discharge to, or construct, an injection well, prior to the filing of the report required by Section 13260 and no person shall take any of these actions after filing the report but before whichever of the following occurs first:”
California Water Code Section 13265(a)	“Any person discharging waste in violation of <u>Section 13264</u> , after such violation has been called to his attention in writing by the regional board, is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b). Each day of such discharge shall constitute a separate offense.”
California Water Code Section 13350	“A person who (1) violates a cease and desist order or cleanup and abatement order hereafter issued, reissued, or amended by a regional board or the state board, or (2) in violation of a waste discharge requirement, waiver condition, certification, or other order or

Regulatory Section	Citation
	prohibition issued, reissued, or amended by a regional board or the state board, discharges waste, or causes or permits waste to be deposited where it is discharged, into the waters of the state, or (3) causes or permits any oil or any residuary product of petroleum to be deposited in or on any of the waters of the state, except in accordance with waste discharge requirements or other actions or provisions of this division, shall be liable civilly, and remedies may be proposed, in accordance with subdivision (d) or (e).”
Federal Clean Water Act Section 401	Section 401 (a)(1) “Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates”
Federal Clean Water Act Section 404	Section 404(a) provides, in relevant part, “The Secretary may issue permits...for the discharge of dredged or fill material into the navigable waters...” The Code of Federal Regulations defines the term “dredged material” as material that is excavated or dredged from waters of the United States. 33 C.F.R. § 323.2(c). The term “discharge or dredged material” mean any addition of dredge material into the waters of the United States. 33 C.F.R. § 323.2(d)(1). The Code of Federal Regulations defines “fill material” as material placed in waters of the United States that has the effect of replacing any potion of a water of the United States with dry land or changing the bottom elevation of any potion of a water of the United States. 33 C.F.R. § 323.2(e)(1). The term “discharge of fill material” means the additional of fill material into waters of the United States. 33 C.F.R. § 323.2(f).

FACILITIES INSPECTION REPORT

Region/Office: 1	Status: Performed	Reg. Measure ID: 444109
Program Type: IRRICANNABIS	WDID:	Order Number:
Scheduled Insp. Date:	Actual Insp. Date: 06/24/2021	

Discharger Information

Party ID: 592488	Discharger Organization Name: Sheppard, Noah		
Address: P.O. Box 112	City, State, Zip: Albion, CA 95410		
Discharger Contact Person:	Discharger Contact Phone:		
Discharger Contact Email Address:			

Facility Information

Place ID 874977	Facility Name: Noah Sheppard		
Address:	City, State, Zip: Ukiah, CA 95482		
County: Mendocino	Latitude: 39.26038	Longitude: -123.45396	Method: Map Interpolation (digital)

Lead Inspector Information

Lead Inspector Party ID: 568606	Lead Inspector Name: Brian Fuller		
Inspector Type:	<input checked="" type="checkbox"/> State	<input type="checkbox"/> State Contractor	<input type="checkbox"/> EPA Contractor
	<input type="checkbox"/> EPA and State (EPA Lead)	<input type="checkbox"/> EPA and State (State Lead)	<input type="checkbox"/> EPA (Regional)

INSPECTION TYPE

Inspection Type: B Type compliance inspection

VIOLATIONS

Were Violations noted during this inspection? Yes No

Violation ID	Violation Type	Occurrence Date	Rank	Description
1091717	Basin Plan Prohibition	06/24/2021	B	Water Quality Control Plan for the North Coast Region (Basin Plan) Section 4.2.1 at locations WQ3, WQ4, WQ6 and WQ8
1091718	Unauthorized Discharge	06/24/2021	B	California Water Code section 13260 and 13264 for unauthorized discharge of waste at locations WQ2 and WQ9

INSPECTION SUMMARY (REQUIRED) (500 character limit)

Recommendations:

1. Enroll the Property in the Cannabis General Order.
2. Engage a qualified professional to assess the recently constructed roads on the Property & ensure future development and uses for cannabis are in conformance with current regulations.
3. Engage a qualified professional to assess the wellhead at WQ1 and ensure the wellhead meets Mendocino

GENERAL NOTES (OPTIONAL) (2000 character limit)

My inspection was associated with a criminal search warrant and I viewed only portions of the Property. Please see the attached Map and Appendices for locations and details about features of concern to water quality.

At WQ1, I observed a well that was being used to irrigate cannabis cultivation. The wellhead was not properly developed and provides a pathway for pollutants to contaminate groundwater. I observed cannabis cultivation occurring at WQ2 without coverage under the Statewide Cannabis General Order. I followed a recently created road from WQ2, and past WQ3 that threatens to discharge waste sediment to the tributary to Johnson creek at WQ4.

At WQ5 I observed domestic wastewater had recently been discharged to the ground behind a residence. At WQ6 I observed a road segment had been recently tracked by heavy equipment. The Road leads to, but does not cross, a watercourse at WQ7. I observed sediment transported by surface water at WQ8. The sediment appeared to originate from the road segment to the west. The roads passing WQ3, WQ5, WQ6 and WQ8 are not designed or maintained according to the standards of the Rural and Ranch Roads Handbook.

At WQ9 I observed cannabis cultivation occurring without coverage under the Statewide Cannabis General Order.

For Internal Use (Optional)					
Reviewed By:	(1)	(2)	(3)		
CIWQS Entry Date:		Regional Board File Number:		CIWQS Inspection ID:	

Inspection Maps and Photolog for inspection conducted, June 24, 2021

Map and photo selection completed by Brian Fuller, PG, Engineering Geologist

Inspection Map

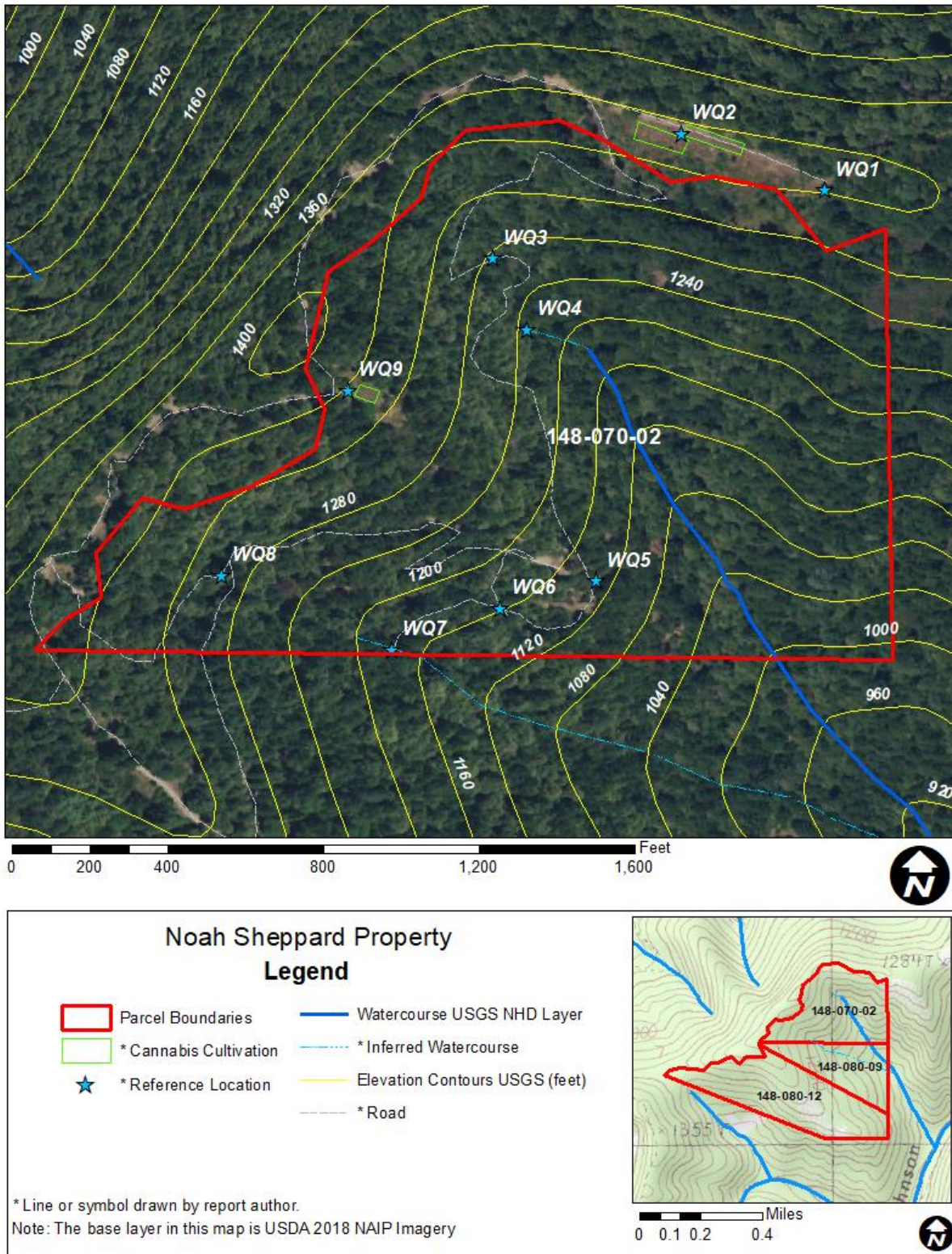


Figure 1: Map of Property, including inspection points of interest.

Photo Appendix:



Photo 1—Groundwater well located at WQ1. Cavity where the well protrudes from the ground may allow pollutants from the service to pollute groundwater.



Photo 2—Looking south between two hoop-type greenhouses with growing cannabis plants at WQ2.



Photo 3—Looking west along road in the vicinity of WQ3. The road is six feet wide and the catface on the opposite side of the road averages three feet high. A berm of earthen spoils borders the out-slope edge of the road, which will concentrate stormwater and erode the road surface.



Photo 4—Looking west along road in the vicinity of WQ3.



Photo 5—Looking south east from the road pictured in the previous image. Cobbles from creating the road are in the foreground of the image. A channelized channel, that is pictured in the following image, is visible in the middle back of this photo.



Photo 6—Channelized watercourse located, at WQ4, in the topographic swale pictured in the previous image. The watercourse is the upstream extent of the tributary to Johnson Creek Mapped as a blueline stream in the USGS National Hydrography Dataset.



Photo 7—Location, at WQ5, where wastewater discharges from residence on the Property. Staff noted the ground was saturated at the end of the pipe and smelled the odor of waste food and soap.



Photo 8—Earthen spoils on the downslope edge of the road in the vicinity of WQ5.



Photo 9—Looking east at earthen spoils on the downslope edge of the road in the vicinity of WQ6.



Photo 10—Looking west at earthen spoils on the road in the vicinity of WQ6.



Photo 11—Watercourse at the end of the road at WQ7. The road did not cross the watercourse.



Photo 12—Fine sediment uniformly deposited on out-slope edge of the road at WQ8.



Photo 13—Looking east from northern fork of road towards WQ8 in the center of the image. The road to the west is shaped such that it will collect stormwater for a long distance and direct it to a topographic swale in the right of the image.



Photo 14—Outdoor cultivation area located at WQ9